

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIC A.) CIVIL NO. CV04 00428 DAE-LEK
 POWELL, THROUGH PERSONAL)
 REPRESENTATIVE MARY K.)
 POWELL; THE ESTATE OF)
 JAMES D. LAUGHLIN, THROUGH)
 PERSONAL REPRESENTATIVE)
 RAGINAE C. LAUGHLIN; MARY)
 K. POWELL, INDIVIDUALLY;)
 RAGINAE C. LAUGHLIN,)
 INDIVIDUALLY; CHLOE)
 LAUGHLIN, A MINOR, THROUGH)
 HER NEXT FRIEND, RAGINAE)
 C. LAUGHLIN,)
 Plaintiffs,)
 vs.)
 CITY AND COUNTY OF)
 HONOLULU,)
 Defendant.)

DEPOSITION OF MARY K. POWELL

Taken on behalf of Defendant at the Offices of
 Corporation Counsel, City and County of Honolulu,
 Honolulu Hale (City Hall), 530 South King Street,
 Room 110, Honolulu, Hawaii, commencing at 9:30
 a.m., on Thursday, April 28, 2005, pursuant to
 Federal Rules of Civil Procedure.

BEFORE: PHYLLIS K. KUSHINER, CSR NO. 147
 Notary Public, State of Hawaii

EXHIBIT "6"

WELL, etc., et al., vs. CITY AND COUNTY OF HONOLULU

MARY K. POWELL
April 28, 2005

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1 difficult because this is an aerial photograph.
 2 But the layout that is depicted in the
 3 photograph, is it to the best of your recollection
 4 the same as it was back on January 19, 2002?
 5 MR. MATTOCH: July.
 6 MR. MAYESHIRO: July.
 7 THE WITNESS: Yes.
 8 Q. (By Mr. Mayeshiro) Now I am going to hand
 9 you a red pen, and if you could just circle the
 10 area where you, Eric and Jim had placed your
 11 belongings when you first entered the park?
 12 A. (Witness complies.)
 13 Q. That is it for now.
 14 MR. MATTOCH: May the record reflect
 15 that Ms. Powell has drawn a circle around the
 16 tree that she has previously testified about.
 17 MR. MAYESHIRO: Yes, in red ink.
 18 Q. In fact, I'm sorry. Can I ask you, Ms.
 19 Powell, if you can just put a number one next to
 20 it?
 21 A. (Witness complies.)
 22 Q. And Ms. Powell has drawn the number one
 23 next to the red circle. Did you, Eric and Jim eat
 24 breakfast before you went to the park?
 25 A. I don't remember.

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1 in the past?
 2 A. Yes.
 3 Q. Do you know how old he was at the time he
 4 took those classes or lessons?
 5 A. A little kid.
 6 Q. Other than those types of swimming lessons,
 7 did he receive any other type of swimming classes,
 8 certifications, training?
 9 A. He was a good swimmer.
 10 Q. Did he swim in high school or in college?
 11 A. No.
 12 Q. Collegiate?
 13 A. No.
 14 Q. What about Jim?
 15 A. He was a good swimmer as well.
 16 Q. Did he take lessons, too, when he was a
 17 child?
 18 A. When he was a child, yeah.
 19 Q. And did you also take lessons?
 20 A. Yes.
 21 Q. And other than those lessons, did either
 22 you or Jim have any specialized training in
 23 swimming?
 24 A. I swam competitively as a kid, and I don't
 25 remember. I think Jimmy did, too, when we were

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1 Q. Did you bring any food with you?
 2 A. No.
 3 Q. Did you buy any food on the way?
 4 A. We bought food there.
 5 Q. And did you eat breakfast at the park when
 6 you arrived?
 7 A. We ate an early lunch.
 8 Q. Do you recall approximately what time that
 9 was?
 10 A. I think it was 10:00 o'clock.
 11 Q. Do you recall what you ate?
 12 A. Sandwiches.
 13 Q. Anything else?
 14 A. Chips.
 15 Q. Before 10:00 o'clock, did either you, Eric
 16 or Jim go into the water?
 17 A. Yes.
 18 Q. Who went into the water?
 19 A. All three of us.
 20 Q. And did you have snorkeling gear when you
 21 went into the water before 10:00?
 22 A. Yes.
 23 Q. And let me just break from this line of
 24 questioning for a moment. To your knowledge, did
 25 Eric take any type of swimming classes or lessons

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1 younger, before high school.
 2 Q. Did either you or Jim receive any type of
 3 honors, medals with that?
 4 A. I have a boxful of ribbons, trophies. I
 5 imagine Jim does, too.
 6 Q. And starting with Eric, did Eric have any
 7 specialized training in snorkeling to your
 8 knowledge?
 9 A. What do you mean by specialized training?
 10 Q. Well, are you aware of any classes or
 11 lessons --
 12 A. No.
 13 Q. -- that he took?
 14 A. No, I am not.
 15 Q. Are you aware of any other occasions where
 16 he had gone snorkeling?
 17 A. Yes.
 18 Q. How frequently would Eric go snorkeling
 19 back in 2002?
 20 A. We had been to Mexico. We had been to
 21 Mexico twice snorkeling.
 22 Q. Do you know when that was?
 23 A. The last trip was in the spring, April,
 24 March or April 2002.
 25 Q. And the trip before then to Mexico?